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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,938	08/04/2003	Kevin A. Kelly	D24-1d	5790
7590 Eugene F. Friedman FRIEDMAN & FRIEDMAN, LTD. The 566 West Adams Building - Suite 250 566 West Adams Street Chicago, IL 60661			EXAMINER NGUYEN, TAM M	
			ART UNIT	PAPER NUMBER
			3764	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/11/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/633,938

Applicant(s)

KELLY ET AL.

Examiner

Tam Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 128-134, 145-156, 171-182, 198-212 and 228-239 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 128-134, 145-156, 171-182, 198-212 and 228-239 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.


Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


JEROME DONNELLY
PRIMARY EXAMINER

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 11-15-06

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Claims 240-244 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to nonelected species D, Figure 6, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on February 24, 2006. Claims 240-244 remain withdrawn because the elected Species G of Invention II does not disclose a CPR method that includes the use of a blood flow apparatus that is placed on a chest of a patient.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 145-156 and 210-212 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Regarding claim 145, the specification does not disclose a step in the resuscitation process where a signal is provided to a powered belt means to tighten the belt means around a patient's chest. Claims 146-156 are also rejected for being dependent upon a rejected base claim. In order to expedite the prosecution, the Examiner will assume there is a signal while examining the

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related claims. Regarding claims 210 and 211, it is not clear how the cable is coupled to the belt to allow for a power unit to move the cable and thus the belt. Furthermore, it is not clear what is meant by the phrase ""drives said cable rotatingly". Regarding claim 212, there is no support for the amended language.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 128 and 129 rejected under 35 U.S.C. 102(b) as being anticipated by Lach et al. (4,7709,164).

3. As to claims 128 and 129, Lach et al. disclose a method of performing cardiopulmonary resuscitation ("CPR") on a patient comprising wrapping a belt (12) with first and second opposite extremities (74,76) around a patient's chest, fastening the belt to a power unit (72,170) and placing the actuator (72), having a first and second state, into a first state wherein power is provided to the actuator to tighten the belt around the patient's chest and repeating periodically the placement of the actuator into the first state and the second state (see Figs. 1-7).

Claims 145, 146, 152 and 153 rejected under 35 U.S.C. 102(b) as being anticipated by Lach et al. (4,7709,164).

4. As to claims 145, 146, 152 and 153, Lach et al. disclose a method of performing CPR on a patient comprising wrapping a belt (12) with first and

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second opposite extremities (74,76) around a patient's chest, fastening the belt to an apparatus and providing a particular signal to a powered belt tightener (72) to move the belt extremities in directions to tighten the belt around the patient's chest and periodically providing the signal to tighten the belt wherein the belt is tightened substantially equally around the patient's left and right sides and the belt tightener includes an electric motor (170) (see Figs. 1-7 & Col. 11. lines 61+).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 130-134 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lach et al. '164 in view of Barkalow et al. (4,273,114).

5. As to claims 130-134, Lach et al. disclose a method of performing CPR as described above (see discussion of claim 129). Lach et al. does not disclose that the method further includes defibrillating the chest of the patient undergoing resuscitation, detecting when the belt has placed the patient's chest under maximal compression and inducing a defibrillating electric current at that time wherein two spaced outer chest surfaces are contacted with first and second electrodes. Barkalow discloses an apparatus and inherently a method of performing CPR that includes defibrillating the chest of a patient undergoing

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resuscitation, detecting when the patient's chest is under maximal compression and inducing a defibrillating electric current at that time wherein two spaced outer chest surfaces are contacted with first and second electrodes (48,75) (see Fig. 6, ABSTRACT & Col. 8, lines 13-45). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Barkalow's step of simultaneous compression and defibrillation to Lach's CPR method since the compression would shorten the electrical path to the heart thereby reducing the power required to defibrillate the patient's heart.

Claims 147-151 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lach et al. '164 in view of Barkalow et al. (4,273,114).

6. As to claims 147-151, Lach et al. disclose a method of performing CPR as described above (see discussion of claims 145 and 146). Lach et al. does not disclose that the method further includes defibrillating the chest of the patient undergoing resuscitation, detecting when the belt has placed the patient's chest under maximal compression and inducing a defibrillating electric current at that time wherein two spaced outer chest surfaces are contacted with first and second electrodes. Barkalow discloses an apparatus and inherently a method of performing CPR that includes defibrillating the chest of a patient undergoing resuscitation, detecting when the patient's chest is under maximal compression and inducing a defibrillating electric current at that time wherein two spaced outer chest surfaces are contacted with first and second electrodes (48,75) (see Fig. 6, ABSTRACT & Col. 8, lines 13-45). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Barkalow's step of

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simultaneous compression and defibrillation to Lach's CPR method since the compression would shorten the electrical path to the heart thereby reducing the power required to defibrillate the patient's heart.

Claims 154-156, 180-182, 207-209 and 236-238 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lach et al. '164.

7. As to claims 154-156, 180-182, 207-209 and 236-238, Lach et al. disclose a method of performing CPR as described above (see discussion of claims 152, 178, 205 and 234 respectively). Lach et al. does not disclose that the belt tightener includes a fluid-pressure motor, a hydraulic motor or a pneumatic motor. The examiner takes Official Notice that the prior art includes medical devices that used a variety of motors for actuation of various components. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use any of an array of motors including those disclosed by the instant invention since they all provide a readily useable and portable actuation force.

Claims 171, 172, 178, 179, 198, 199, 205 and 206 are rejected under 35 U.S.C. 103(a) as being unpatentable Lach et al. (4,770,916).

8. As to claims 171, 172, 178, 179, 198, 199, 205 and 206, Lach et al. disclose a method of performing CPR on a patient comprising wrapping a belt (12) with first and second opposite extremities (74,76) around a patient's chest and fastening the belt to an electric motor power unit (72,170) wherein the power unit repeatedly tightens the belt around the patient's chest equally around the patient's left and right sides (see Figs. 1-4). Lach also discloses that the apparatus/power unit is adapted to receive power from an electrical source (see

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Col. 11, lines 31-35); however, Lach does not disclose a cable/line for supplying power from a power supply to the power unit. The examiner takes Official Notice that the prior art includes medical devices that are connected to power sources with cables/lines. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine a cable that supplies power from a power supply to the power unit such that the apparatus can be readily usable anywhere there is a power socket.

Claims 173-177 and 200-204 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lach et al. '164 in view of Barkalow et al. (4,273,114).

9. As to claims 173-177 and 200-204, Lach et al. disclose a method of performing CPR as described above (see discussion of claims 171 and 172, and 198 and 199 respectively). Lach et al. does not disclose that the method further includes defibrillating the chest of the patient undergoing resuscitation, detecting when the belt has placed the patient's chest under maximal compression and inducing a defibrillating electric current at that time wherein two spaced outer chest surfaces are contacted with first and second electrodes. Barkalow discloses an apparatus and inherently a method of performing CPR that includes defibrillating the chest of a patient undergoing resuscitation, detecting when the patient's chest is under maximal compression and inducing a defibrillating electric current at that time wherein two spaced outer chest surfaces are contacted with first and second electrodes (48,75) (see Fig. 6, ABSTRACT & Col. 8, lines 13-45). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Barkalow's step of simultaneous

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compression and defibrillation to Lach's CPR method since the compression would shorten the electrical path to the heart thereby reducing the power required to defibrillate the patient's heart.

Claims 228-233 are rejected under 35 U.S.C. 103(a) as being unpatentable Lach et al. (4,7709,164) in view of Barkalow et al. (4,273,114).

10. As to claim 228-235, Lach et al. disclose a method of performing CPR on a patient comprising wrapping a belt (12) around a patient's chest and periodically moving the belt in a direction to tighten the belt around the patient's chest to place the chest under compression by an electric motor wherein the belt is tightened substantially equally around the patient's left and right sides (see Figs. 1-7). Lach et al. does not disclose that the method further includes periodically defibrillating the chest of the patient undergoing resuscitation, detecting when the belt has placed the patient's chest under maximal compression and inducing a defibrillating electric current at that time wherein two spaced outer chest surfaces are contacted with first and second electrodes. Barkalow discloses an apparatus and inherently a method of performing CPR that includes defibrillating the chest of a patient undergoing resuscitation, detecting when the patient's chest is under maximal compression and inducing a defibrillating electric current at that time wherein two spaced outer chest surfaces are contacted with first and second electrodes (48,75) (see Fig. 6, ABSTRACT & Col. 8, lines 13-45). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Barkalow's step of simultaneous compression and defibrillation to Lach's CPR method since the compression

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would shorten the electrical path to the heart thereby reducing the power required to defibrillate the patient's heart.

Response to Arguments

11. Applicant's arguments filed November 16, 2006 have been fully considered but they are not persuasive. Regarding claim 145, the specification does not disclose a step wherein a signal is provided to a powered belt means to tighten the belt means. The applicant argues that Figure 8 and its accompanying description on page 30 of the specification provide the required basis, but the applicant is referring to species G: Figure 8, which was not elected. Applicant further argues that the actuator 34 "must provide a signal of some sort" to the cylinder/power supply 236 to force pistons 226 and 228 together yet the specification discloses that it is "upon actuation of an actuator, hydraulic fluid is forced into the hydraulic cylinder 220 forcing the pistons together." There appears to be no need for a power supply and thus no need for a signal as claimed since the actuator as disclosed would force the hydraulic fluid into the cylinder. As for claims 210 and 211, the applicant argues that "actual mechanical means" for the power unit to drive the cable either rotatively or longitudinally and reciprocatingly are "straightforward and within the skill of an artisan in the mechanical arts, yet the drawing of Fig. 9 is not clear since the cable (256) is not shown to be coupled to the belt (258) and it's perpendicular disposition relative to the belt would not suggest that the power source can actuate the cable to move to move the belt in any way.

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Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.**

See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

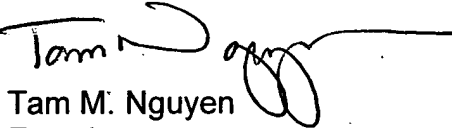
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tam Nguyen whose telephone number is 571-272-4979. The examiner can normally be reached on M-F 9-5.

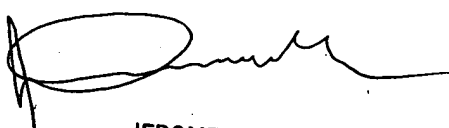
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cary O'Connor can be reached on 571-272-4715. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

March 20, 2007


Tam M. Nguyen
Examiner
Art unit 3764


JEROME DONNELLY
PRIMARY EXAMINER